



Law Office of Thomas E.

Ho'okano

01806

Attorney At Law

June 10, 1998

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The Shell Building
25th floor
100 Bush Street
San Francisco, Ca. 94104
tel 415.391.6001
fax 415.391.7004

VIA FACSIMILE TO (916) 654-9780

Mr. Lester Snow

CALFED Bay Delta Program

1416 9th Street- Suite 1155

Sacramento, California 95814

Attention: Marian Moe

**Re: CALFED PROJECT - VIOLATION OF PUBLIC RESOURCES CODE
SECTION 5093.50 - 5093.70**

Dear Mr. Snow:

I represent the Bollibokka Land Company ("Bollibokka"). Bollibokka has been in operation since 1904 and is primarily in the ownership of the Hills family. The Hills family started Hills Bros. Coffee in the late 1800's in San Francisco. Bollibokka owns approximately 4,560 acres of pristine forest land in Shasta County. Some of the landholding (approximately ten miles) is along the McCloud River which is hailed as one of the most scenic rivers in the entire United States. Bollibokka operates a private fly fishing club whose members have used and enjoyed the amenities of the McCloud River, as well as contributed to their preservation and protection for close to a hundred years.

Bollibokka is very concerned with the State of California's participation in the CALFED Bay Delta Program. We understand the laudable purposes, however, we are very concerned with the programmatic alternative that calls for the enlargement of Shasta Dam- Reservoir. We believe that the alternative violates the California Wild & Scenic Rivers Act (Pub. Res. Code Sections 5093.50 - 5093.70) and the Coordinated Resource Management Plan For The McCloud River ("CRMP"). The State of California is a participant in the CRMP by way of the Department of Fish & Game. I am enclosing a



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copy of the CRMP and Memorandum of Understanding for your information.

As we understand the various proposals under the Shasta Dam alternative, the dam may be raised by 17 feet, by 63 feet or by 200 feet. Under these scenarios, much of the McCloud River would lose its present grandeur. The increased storage, for example, would inundate historic buildings on the Bollibokka property and would result in the loss of up to six miles of the river. Much of the river's present scenic beauty would be ruined because of the repetitive increase and decrease in the reservoir level which would create a "bathtub ring effect". Further, the increased level of the reservoir will allow non-native lake fish to by-pass certain natural barriers now existing in the McCloud river, and will lead to the degradation of the entire wild-trout fishery.

We would like your views on the California Wild and Scenic Rivers Act (Public Resources Code Section 5093.50 et seq.) as it relates to the state's participation in the CALFED Shasta Dam Alternative. The Act is intended to protect the wild and scenic values of the McCloud River. Our conclusion is that the state's participation in the CALFED Project would appear to violate the spirit, if not the letter, of the Act to the extent that it promotes or would endorse the Shasta Dam alternative..

The Wild and Scenic Act declares that the McCloud River possesses "extraordinary resources in that it supports one of the finest wild trout fisheries in the state." In addition, the Act provides at Section 5093.542 sub. (a) that "The continued management of the river resources in their existing natural condition represents the best way to protect the unique fishery of the McCloud River." The Legislature further finds and declares that maintaining the Mc Cloud River in its free-flowing condition to protect its fishery is the highest and most beneficial use of the water of the McCloud River within the segments designated in subdivision (b), and is a reasonable use of water within the meaning of Section 2 of Article X of the California Constitution."

The Act provides further that "No dam, reservoir, diversion, or other water impoundment facility shall be constructed on the McCloud River from Algoma to the confluence with Huckleberry Creek and .25 miles downstream from the McCloud dam to the McCloud River Bridge" . PRC section 5093.542(b).



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Attorney at Law

Finally, the Act forbids participation by any department or agency of the state in assisting or cooperating with any agency of the federal, state, or local government in the planning or construction of any dam, reservoir, diversion or other water impoundment facility that could have an adverse effect on the free flowing condition of the McCloud River, or on its wild trout fishery, except that the Department of Water Resources may participate in studies involving the technical and economic feasibility of enlargement of Shasta Dam. PRC Section 5093.542(c) (Emphasis added).

It would appear that the above referenced legislation precludes California's participation in the CALFED project's proposed Shasta Dam alternative (especially now that the CALFED project is well beyond technical and economic studies) insofar as it would promote the enlargement of the Shasta Dam and Reservoir, so that the wild and scenic values of the McCloud River would be lost. This is particularly true where the Shasta Reservoir alternative would result in loss of six miles of the McCloud River due to inundation. What is your opinion? We intend to submit comments on the CALFED EIS/EIR. We would appreciate receiving your views on our interpretation of the Public Resources Code provisions at least a week in advance of the close of the public comment period (i.e. July 1, 1998) so that we may respond for the record.

Lastly, the State of California is a participant in what is termed the "Coordinating Group" of the McCloud River "Coordinating Resource Management Plan" ("CRMP"). The state participates by way of the Department of Fish and Game. The CRMP group also includes a federal participant from the United States Forest Service (USFS) which is part of the United States Department of Agriculture. The CRMP group is a federal, state, private party partnership which is responsible for managing the resources of the McCloud River. CRMP members include the Bollibokka Land Company, The Hearst Corporation, California - Trout, Inc., Crane Mills, The Nature Conservancy, Shasta Trinity National Forest, Pacific Gas & Electric Company and the McCloud Fly Fishing Club, among others. The members commit to manage their lands in accordance with the objectives and land management practices of the CRMP. Specifically forbidden is the exercise of eminent domain over any private property within the CRMP boundaries. The over-all



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Ho'okano

Attorney at Law

objective of the CRMP is to provide for the preservation of the natural resources along the McCloud River corridor. Protection of the river resources via the CRMP, in concert with the California Wild & Scenic Rivers Act, was accepted as the preferred management alternative and incorporated into the USFS Land management Plan. It would appear that the state and the federal participation in the CALFED Shasta Dam Alternative also violates the spirit and the letter of each entity's commitment as signatories to the CRMP agreement. This is especially true where the federal government would exercise eminent domain over riparian lands bordering the McCloud River and where the plan to enlarge the Shasta Reservoir would conflict with the land management objectives of the CRMP. What is your opinion?

We very much appreciate your attention to these issues. They are of urgent importance as we understand that the Governor and Secretary of the Interior would like to select the preferred alternatives by the end of the year. In addition, while the comment period on the draft EIS/EIR for the CALFED plan has been extended from June 1, 1998 to July 1, 1998, there is little time remaining to prepare comments for the record. We would, therefore, appreciate receiving your views in time to incorporate them into our comments on the project EIR/EIS.

Please let me know if you have need for additional information in order to complete your response. Many thanks for your attention to these matters.

Sincerely,

Thomas E. Ho'okano
Attorney For Bollibokka Land Co

DEPARTMENT OF
WATER RESOURCES
SACRAMENTO

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Mr. Lester Snow
CALFED BAY DELTA PROJECT
1416 9th Street Suite 1155
Sacramento, California 95814

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DEPARTMENT OF
WATER RESOURCES
SACRAMENTO

Attorney At Law
The Shell Building
26th. floor
100 Bush Street
San Francisco, Ca 94104

Law Office of Thomas E. Okano

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